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## RECENT IMPORTANT DECISIONS.

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**ATTACHMENT—GARNISHMENT OF EQUITABLE INTERESTS.**—A debtor, by trust deed assented to by all of his creditors, conveyed his property to trustees for the benefit of creditors. The plaintiff garnished the trustees for the interest of one creditor in such trust estate. *Held*, such interest of the creditor is subject to garnishment. *National Surety Co. v. Hurley* (Minn. 1915), 153 N. W. 740.

At common law, nothing could be taken under process in which the defendant's estate was merely equitable, because the law courts did not recognize a merely equitable title, and equity courts enforced their decrees by coercion. *ROOD, ATTACHMENTS, GARNISHMENTS, AND EXECUTIONS*, § 174. But in most states, if not in all, these estates are held liable to process at law without statute, or are made so liable by statute. *FREEMAN, EXECUTIONS*, §§ 117, 120; *DRAKE, ATTACHMENT*, § 245; *ROOD, GARNISHMENT*, §§ 169-176. Thus it has been held that the trustee of a naked trust may be garnished, in *Estate of James McCann, deceased*, 16 Phila. (Pa.) 224; that the income for life of the cestui que trust is attachable, in *The Girard Life Ins. & Trust Co. v. Chambers*, 46 Pa. St. 485 (see also *Fidelity Trust Co. v. New York Finance Co.*, 125 Fed. 275); that alimony adjudged to the wife against her divorced husband may be reached by garnishment, in *Scheffer v. Boy*, 5 Pa. Co. Ct. 158. A bank may be garnished for the excess of the proceeds of notes received as collateral security, and sold by it. *National Bank of Galena v. Chase et al*, 71 Ia. 120. A mortgagee, in possession, may be garnished for the excess above the advances made before the service of the summons. *Lieter v. Smith*, 70 Ill. 168; *Divver & Gunton v. McLaughlin*, 2 Wend. (N. Y.) 596, 20 Am. Dec. 655, and note; *Smith v. Menominee County Judge*, 53 Mich. 560; *Hobart et al. v. Jouvett & Trustee*, 6 Cush. (Mass). 105. When garnishment is conducted as an equitable proceeding no reason appears why equitable rights may not thereby be attached as well as legal debts. *Candee v. Penniman*, 32 Conn. 228; *Cox v. Russell*, 44 Ia. 556; *Root v. Davis*, 51 Ohio St. 29; see also 13 MICH. L. REV. 165.

**BASTARDY—PRESUMPTION OF LEGITIMACY.**—Evidence showed that the father and mother of the plaintiffs had cohabited together for thirty years, during which period the plaintiffs were born. The plaintiffs' right to inherit from the father being in dispute, the court instructed the jury that the burden was upon the plaintiffs to show that they were legitimate. *Held*, that the instruction was erroneous, the appellate court saying, "When the plaintiffs proved that their father and mother occupied the same house and tilled the same soil for thirty years \* \* \* the presumption arose that their children were legitimate. Thereupon the burden was shifted upon the defendants to prove that to be false which seemed to be true." *Cave v. Cave* (S. C. 1915), 85 S. E. 244.